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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,865

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Arkady Glukhovsky

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49443 7590 01/23/2009
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EXAMINER

LARYEA, LAWRENCE N

ART UNIT

PAPER NUMBER

3768

MAIL DATE

DELIVERY MODE

01/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,865	Applicant(s) GLUKHOVSKY ET AL.	
	Examiner LAWRENCE N. LARYEA	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41,49,50,52,53,55,56 and 58-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41,49,50,52,53,55,56 and 58-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/29/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on *17 June 2008* has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 41,49,50,52,53,55,56,58-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Schentag et al (US Patent 5,279,607)** in view of **Iddan et al (US Patent 5,604,531 as previously cited)** further view of **Fujita et al (US Patent 7,061,523)**

3. Re Claims 41,49,50,52,53,55,56,58,59-63,64-68: **Schentag et al** teach a system (**See Fig. 1**) for receiving in vivo signals transmitted from within a body, the system comprising: a receiver said receiver (**8**) comprising an amplifier ; a plurality of

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antennas **(7)** adapted to be placed on the body connected to the receiver, wherein the plurality of antennas are to receive an in vivo signal transmitted from within the body; and a recorder **(11)** is separated from the receiver; wherein the amplifier is configured to amplify the at least signal received from the antennas. **(See Col.3, lines 4-68; Col.4, lines 1-50).**

4. **Schentag et al** teach the claimed invention supra, **Schentag et al** does not teach that the system includes a switching unit, and a recorder is configured to be worn by a patient's body .

5. **Iddan et al** teach an in vivo system which includes a recorder configured to be worn by a patient's body, an amplifier **(32)** which amplifies the in vivo signals received from at least one antenna from the plurality of antennas **(See Col.3, lines 58-65, Col. 5, lines 19- 25)** and automatically adjusting operation of a receiver according to the identified type of antenna **(See Col. 4, lines 41-45 and Col. 4, lines 57-61).**

6. Re Claim 49: **Iddan et al** teach an in vivo system wherein the plurality of antennas comprises a radio frequency antenna (See Col. 3, lines 58-67).

7. Re Claim 59: **Iddan et al** teach an in vivo system wherein the plurality of antennas can be arranged in a circular pattern to wrap around the patient (See Col. 4, lines 26-30 and Fig 4).

8. Re Claim 68: **Iddan et al** teach an in vivo system wherein at least one signal is the strongest signal received by the by the plurality of antennas. **(See Col.5, lines 19-31).**

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It would have been obvious to one having ordinary skill in the art at the time invention was made to modify the in vivo system of **Schentag et al** to include or incorporate the teaching of an **amplifier** (common signal booster) and a recorder which is configured to be worn by a patient's body of **Iddan et al** in order to accept a small (weak) signal (s) and outputs a larger (stronger) signal (s) (**See Col.3, lines 58-65**) so that the received signals can be transform into video data stream (**See Col.1, lines 61-67 Col.1, lines 1-6**) as taught by **Iddan et al**

9. The combination of **Schentag et al** and **Iddan et al** do not teach that the system includes a switching unit .

10. **Fujita et al** teach a system for receiving in vivo signals transmitted from within a body, the system comprising: a receiver said receiver (**5**) comprising a switching unit (**45,31,46,33,32**) which is configured to transmit and receive signals; a plurality of antennas (**11 (a-d)**) adapted to be placed on the body connected to the receiver wherein the plurality of the antennas are to receive an in vivo signal transmitted from within the body(**See Fig.4**).

It would have been obvious to one having ordinary skill in the art at the time invention was made to modify the in vivo system of **Schentag et al** and **Iddan et al** to include switching unit of **Fujita et al** in order to sequentially select the highest strength desire radio wave signal (s) during in vivo signal acquisition during the movement of capsule in a living body (**See Col.7, lines 1-67; See Col.7, lines 1-67**) as taught by **Iddan et al**.

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Schentag et al in view of **Iddan et al** and further view of **Fujita et al** teach the **elements** (receiver (amplifier and switching unit), antennas and recorder) **of claimed invention except that** " the switching unit is located an electrically shorter distance to the plurality of antennas than the recorder." It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify **Schentag et al** in view of **Iddan et al and further view of Fujita et al** wherein the switching unit is located an electrically shorter distance to the plurality of antennas (See Fig.4) than the recorder (memory) in order to achieve better and stronger in vivo signals as taught by **Fujita et al**.

In KSR, the Supreme Court has previously held that the mere combination of prior art elements to yield predictable results does not constitute a patentable advance in the art (see for precedent *KSR International Co. v. Teleflex Inc*, 82 USPQ2d 1385). **Also, it has been held that rearranging parts (elements) of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.**

Response to Arguments

Examiner acknowledges Applicant's amendment and remarks filed 17June 2008

Claims 41, 49, 50, 52, 53, 55, 56, 58-68 are now pending. The Examiner acknowledges the amendments to Claims 41, 50, 61-65, 67 as well as the cancellation of Claims 47-, 48, 51, and additional of new 68.

Applicant's arguments with respect to claims 41, 49, 50, 52, 53, 55, 56, 58, 59-63, 64-68 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAWRENCE N. LARYEA whose telephone number is (571)272-9060. The examiner can normally be reached on 9:30 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

LNL

/Long V Le/

Supervisory Patent Examiner, Art Unit 3768